

Town of Frederick Board of Trustees



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AM 2009-048

To Consider a Request for a Variance from Section 4.11.2 of the Land Use Code Regarding Subdivision Amendments

Agenda Date: May 26, 2009

Attachments:

- a. Vicinity Map
- b. Applicant's Request
- c. Alta Survey
- d. Resolution

Fiscal Note: None noted or provided Fiscal note

Marcia Keenan
Finance Director

Submitted by: Jennifer Simmons
Planning Director

Approved for Presentation: [Signature]
Town Administrator

AV Use Anticipated Projector yes Laptop no

Certification of Board Approval:

Town Clerk

Date

Summary Statement:

A request has been made for a variance from Article 4, Section 11.2 regarding Subdivision Amendment. The requirement allows for an administrative process to create a new lot.

Detail of Issue/Request:

Longmont United Hospital is prepared to purchase approximately 69 acres of Section 35 located north of Highway 52, south of Tipple Parkway, east of I-25, and west of Silver Birch Boulevard (see attached

vicinity map). In order to complete the purchase, a subdivision plat must be processed to create a lot out of the Section.

The attached Alta survey shows the area of land to be segregated from the rest of Section 35. As the Code is currently written, the applicant would be required to plat not only the lot to be created (approximately 69 acres), but also the original lot (approximately 577 acres). The applicant is requesting that the Town allow the hospital to plat only the land to be purchased (area outlined in purple on the vicinity map).

In reviewing the variance application, staff reviewed both the Town Land Use Code and the Weld County Code which allows subdivisions of 35 acres or more to be processed in a manner different than a subdivision. In the County, this process is known as a Recorded Exemption. While this process seems to fit the variance request, there are other elements of development that remain to be addressed. These items are called out as conditions in the resolution approving the variance.

Section 4.7.7.e. items (1) through (6) address the review criteria for a variance.

- e. Variance criteria for approval. The Board shall not grant a variance to this Code which:
 - (1) Permits a land use not allowed in the zoning district in which the property is located;
 - (2) Is in the public right-of-way or on public property;
 - (3) Alters any definition of this Code;
 - (4) Is other than the minimum variance that will afford relief with the least modification possible to the requirements of this Code;
 - (5) Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to of this Code; or
 - (6) Is based exclusively on findings of personal or financial hardship. Convenience, profit or caprice shall not constitute undue hardship.

The property proposed to be purchased by Longmont United Hospital may be encumbered by two zoning districts, Employment and Residential Medium Density. If in fact, the new lot has two separate zoning designations, a zoning amendment will be required. This may be done concurrently with the first phase of development.

The property is not in the public right-of-way or on public property. However, because future development is anticipated on both the property to be purchased as well as the rest of the Section, public right-of-way will be required to be dedicated by separate instrument. Specific conditions are included to address this requirement.

The variance request does not specifically alter any definition of the Land Use Code. It simply requests altering a requirement of the Code, the minimum variance that will afford relief. The request is based on the physical size of the overall property and the costs associated with platting the Section versus platting the smaller property to be purchased.

Legal/Political Considerations:

The Town of Frederick Land Use Code does not provide for a subdivision/recorded exemption process for large (35+ ac.) parcels. As such, seeking a variance from the subdivision amendment/minor subdivision process appears to be appropriate in this instance based on the size/acreage of the subject

property and the absence of development comprehensive plans. The requested variance would effectively permit the creation of a two-lot subdivision, requiring formal platting on only one lot. The disadvantage of approving this variance is that other developers may also want to use a similar approach to phase their developments, in contravention of the Land Use Code. As such, the Town should apply narrow standards to avoid piecemeal development. Requiring a Master Development Plan, as mentioned in the Annexation Agreement for the subject property, that sets forth how development will be phased on the property and making certain promises, like in an MOAPI, would discourage abuse of this discretionary process. It is not clear whether the submitted drawing entitled "Lansons Farm survey" is meant to serve as the Master Development Plan, but the BOT/Board of Adjustment should have such a document to consider in its deliberations on this application.

Alternatives/Options:

The Board of Trustees can grant the variance as requested, grant it with modifications, or deny the request.

Financial Considerations:

Not Applicable.

Staff Recommendation:

Staff recommends approving this variance request based on the unique situation of the size of the site with the following conditions:

1. Within one hundred eighty (180) days of this approval, Applicant shall submit a Master Development Plan or other comparable document, detailing the development phases on the subject property;
2. When development is planned on the remainder of the subject property, the remainder of the property will be formally subdivided in a single plat under the Frederick Land Use Code, for which no variance or waiver from such Code shall be requested or granted.
3. The property boundaries of the parcel to be purchased by Longmont United Hospital will be compared with the zoning district boundaries. Should the property include multiple zoning designations, a zoning amendment will be processed to encumber the property with the Employment zoning designation. This will be completed prior to the first building permit being issued.
4. Additional right-of-way to be dedicated to the Town or the Colorado Department of Transportation (CDOT) will be required. This may be done by platting or by separate instrument. The following right-of-way dimensions will be required:
 - a. Silver Birch Boulevard is a major arterial requiring a 120' ROW.
 - b. CDOT will designate the required ROW on Hwy. 52.
 - c. A collector street with a 75' ROW will be required on the half Section line along the western boundary of the property.
5. The location and type of access from Hwy. 52 to the site will be determined by the Town of Frederick's and CDOT's Design Criteria.
6. Access from Silver Birch Boulevard to the site will be determined by the Town of Frederick's Design Criteria. All intersection spacing criteria as shown in the Town's Construction Standards shall be met.

7. A traffic report shall be submitted to determine interior road classifications which will dictate the width of ROW that will need to be dedicated to the Town on all public roadways.
8. All access on Hwy. 52 and Silver Birch Boulevard may be shared with adjacent property owners.
9. The plat shall dedicate all necessary utilities as needed for development.
10. Hwy. 52/Silver Birch Boulevard intersection improvement will be required with the development of the site. They may include but are not limited to the following:
 - a. Left and right turn lanes
 - b. Acceleration and deceleration lanes
 - c. Traffic signal
 - d. Possible extension of the Godding Hollow and/or Lower Boulder Ditch Hwy. 52 crossings
11. The new collector at the half Section line and Hwy. 52 intersection may require improvements. They may include but are not limited to the following:
 - a. Left and right turn lanes
 - b. Acceleration and deceleration lanes